

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 7113 of 1996
With
SPECIAL CIVIL APPLICATION No. 7114 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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RAMBHAI KANABHAI - Petitioner(s)
Versus
ADDITIONAL CHIEF SECRETARY & 1 - Respondent(s)

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Appearance :

MR PJ KANABAR for Petitioner(s) : 1,
MR SATYAM CHHAYA, AGP for Respondent(s) : 1,
MR YN RAVANI for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 12/03/2007

COMMON ORAL JUDGMENT

1.As both the matters are inter-connected and

common questions arise in both the matters, they are being considered by this common judgement.

2. The present petitioners have preferred the petitions for challenging the legality and validity of the orders passed by the State Government, whereby the revision application is allowed and the order of the Collector for maintaining Entry No.986 dated 27.7.1991 in the revenue record based on the registered sale deed is set aside with the direction that the name of the legal heirs be included and after the decision of the Civil Court pertaining to the sale transaction, the entry be mutated.

3. In other Special Civil Application No.7114 of 1996, same is the fact situation, except that there is change in the number of entry, which is No.987 dated 29.7.1991.

4. It appears that the State Government disposed of four revisions being Nos.6/1993, 7/1993, 8/1993 and 9/1993 for Entry Nos.983, 984, 985, 986 and 987 by setting aside the order of the Collector in Appeal No.19 of 1993 to No.23 of 1993 dated 28.9.1993 for maintenance of the aforesaid

entries. For the very fact situation qua Entry No.984, SCA No.7110 of 1996 was preferred by Thakarshi Jasmat Savalia and others and the said Special Civil Application, as per the judgement of this Court (Coram: M.R. Shah, J.) dated 1.9.2005 is allowed with the following directions:-

“5. ...The judgment and order passed by the Deputy Secretary (Appeals), Revenue Department, State of Gujarat dated 17.9/10.1995 passed in Revision Application No.SRD/8 of 1993 is hereby quashed and set aside to an extent of restoring the Entry No.984 with respect of the land in question and it is ordered that a necessary entry will be made on the basis of the judgment and decree that may be passed by the competent civil court and the aforesaid entry No.984 would be subject to the ultimate outcome of the judgment and decree that may be passed by the Civil Court.

6. Rule is made absolute to the aforesaid

extent, however, there will be no order as to costs."

5. It appears that the present cases are covered by the aforesaid decision of this Court since the fact situations are the same and there is only change in the entry. The exercise of the power by the State Government in revisional jurisdiction against the order of the Collector is in the same manner and rather, by common judgement and in the impugned judgement of the State Government, there is reference of the pendency of the Civil Suit No.112 of 1992 and the proceedings arising therefrom.

6. Under the above circumstances, no further discussions may be required in view of the observations made by this Court in the above referred decision and the matters as are being covered by the aforesaid decision of this Court. Hence, similar directions and observations deserve to be issued pertaining for the entries in question, which are the subject matter of the present petitions.

7. Hence, The judgment and order passed by the

Deputy Secretary (Appeals), Revenue Department, State of Gujarat dated 17.9/10.1995 passed in Revision Applications, which is impugned in these petitions, is hereby quashed and set aside to the extent that the Entry Nos.986 and 987, which are subject matter of the present petitions, with respect of the land in question, shall stand restored to the revenue record with the further direction that necessary entry will be made on the basis of the judgment and decree that may be passed by the competent civil court and the aforesaid entry Nos.986 and 987 shall be subject to the ultimate decision of the Civil Court in the aforesaid suit.

8.The petitions are allowed to the aforesaid extent. Rule is made absolute accordingly. Considering the facts and circumstances, no order as to costs.

12.3.2007

(Jayant Patel, J.)

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